

Department of Health and Human Services

§ 50.4

Program. HHS eligibility requirement criteria for waivers are in addition to and independent of the existing waiver and visa criteria established by the Immigration and Naturalization Service (INS), the Department of State, and the Department of Labor. The waiver regulations described in this part do not relieve alien physicians seeking a waiver of the 2-year foreign residence requirement from complying with the terms and conditions imposed on their admission to the United States.

[67 FR 77695, Dec. 19, 2002]

§ 50.2 Exchange Visitor Waiver Review Board.

(a) *Establishment.* The Exchange Visitor Waiver Review Board is established to carry out the Department's responsibilities under the Exchange Visitor Program.

(b) *Functions.* The Exchange Visitor Waiver Review Board is responsible for making thorough and equitable evaluations of applications submitted by institutions, acting on behalf of Exchange Visitors, to HHS for a favorable recommendation to the Department of State that the two-year foreign residence requirement for Exchange Visitors under the Exchange Visitor Program be waived.

(c) *Membership.* The Exchange Visitor Waiver Review Board consists of no fewer than three members and two alternates, of whom no fewer than three will consider any particular application. The Director of the Office of Global Health Affairs, Office of the Secretary, is an ex officio member of the Board and serves as its Chairman. The Director may designate a staff member of the Office of the Secretary to serve as member and Chairman of the Board in the Director's absence. The Assistant Secretary for Health appoints two regularly assigned members and two alternates to consider applications concerning health, biomedical research, and related fields. The Chairman may request the heads of operating divisions of the Department to appoint additional members to consider applications in other fields of interest to the Department. The Board may obtain expert advisory opinions from other sources. The Board may establish a workgroup from the operating

divisions of the Department to consider applications for waivers based on the need for the delivery of health care services to underserved populations.

[49 FR 9900, Mar. 16, 1984, as amended at 67 FR 77695, Dec. 19, 2002]

§ 50.3 Policy.

(a) *Policy for waivers.* The Department of Health and Human Services endorses the philosophy that Exchange Visitors are committed to return home for at least two years after completing their program. This requirement was imposed to prevent the Program from becoming a stepping stone to immigration and to ensure that Exchange Visitors make available to their home countries their new knowledge and skills obtained in the United States. The Department will request waivers for the delivery of health care service to carry out the Department's mission to increase access to care for the nation's most medically underserved individuals. However, in keeping with the philosophy of the Program, the Exchange Visitor Waiver Review Board may determine the appropriate numbers and geographic areas for waivers for the delivery of health care service.

(b) *Criteria for waivers.* The Exchange Visitor Waiver Review Board carefully applies stringent and restrictive criteria to its consideration of requests that it support waivers for Exchange Visitors. Each application is evaluated individually based on the facts available.

(c) *Waiver for members of Exchange Visitor's family.* Where a decision is made to request a waiver for an Exchange Visitor, a waiver will also be requested for the spouse and children, if any, if they have J-2 visa status. When both members of a married couple are Exchange Visitors in their own right (i.e., each has J-1 visa status), separate applications must be submitted for each of them.

[67 FR 77696, Dec. 19, 2002]

§ 50.4 Waivers for research.

In determining whether to request a waiver for an Exchange Visitor engaged in the conduct of research, the Board considers the following key factors: